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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,418	03/25/2004	Kazuyuki Nagasawa	249153US2	5274

22850 7590 04/10/2007  
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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ALVESTEFFER, STEPHEN D

ART UNIT	PAPER NUMBER
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2173

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/10/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/10/2007.

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**Office Action Summary**

Application No.

10/808,418

Applicant(s)

NAGASAWA ET AL.

Examiner

Stephen Alvesteffer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20040325.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-13 are presented for examination. Claims 1, 6, and 11 are independent claims. The Information Disclosure Statement filed on March 25, 2004 has been considered by the examiner.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

- **Claim 1** terminates with a semi-colon instead of a period. All claims must terminate with a period.
- In **claim 8**, "the third icon" lacks antecedent basis.
- In **claim 13**, "the third icon" lacks antecedent basis.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Slivka et al. (hereinafter Slivka), United States Patent number 6,061,695.

**Regarding claim 1**, Slivka teaches a menu displaying method (desktop) (see column 2 lines 1-5), comprising displaying first icon made of symbol image (desktop

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icon before theme change) (see column 2 lines 5-12); selecting a picture to be displayed as wallpaper (see column 2 lines 13-17); changing the first icon to second icon made of a function name and outline (desktop icon after theme change); displaying the second icon with the selected picture (desktop icon after theme change). Slivka teaches that users can select a theme for the desktop environment, which will change the desktop's wallpaper and the icons displayed on the wallpaper (see column 2 lines 35-52).

**Regarding claim 3**, Slivka teaches storing a function name and a geometrical pattern, and changing the first icon to third icon made of a function name and a geometrical pattern. The icons displayed on the desktop of Slivka each show a textual "function name". Furthermore, it is inherent that icons are capable of depicting a "geometrical pattern" (see Figure 6).

**Claims 6 and 8** recite a communication apparatus with substantially the same limitations as claims 1 and 3, respectively. Therefore the claims are rejected under the same rationale.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka.

**Regarding claim 2**, Slivka teaches all the elements of claim 2 except capturing picture from camera to be used as wallpaper. Official Notice is taken that capturing a picture from a camera to be used as a wallpaper image was well known in the art at the time the invention was made.

**Claim 7** recites a communication apparatus with substantially the same limitations as claim 2. Therefore claim 7 is rejected under the same rationale.

**Claims 11-13** recite a communication apparatus with substantially the same limitations as claim 2-4. Therefore the claims are rejected under the same rationale.

Claims 4, 5, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka in view of Lee et al. (hereinafter Lee), United States Patent Application number 2005/0010872.

**Regarding claims 4 and 5**, Slivka teaches all the elements of claims 4 and 5 except for the changing the first icon to first geometrical pattern when the icon is in non-selectable state and changing first icon to second geometrical pattern when the icon is in selectable state. Lee teaches displaying variations in color and shape of the icons to distinguish enabled and disabled icons (see paragraph [0022]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the displaying variations in color and shape of the icons of Lee with the desktop display of Slivka in order to provide notification of which items are selectable to users.

**Claims 9 and 10** recite a communication apparatus with substantially the same limitations as claims 4 and 5, respectively. Therefore the claims are rejected under the same rationale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Alvesteffer whose telephone number is (571) 270-1295. The examiner can normally be reached on Monday-Friday 10:30AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stephen Alvesteffer  
Examiner  
Art Unit 2173



*HA*  
3-29-2007



**RAYMOND J. BAYERL**  
**PRIMARY EXAMINER**  
**ART UNIT 2173**